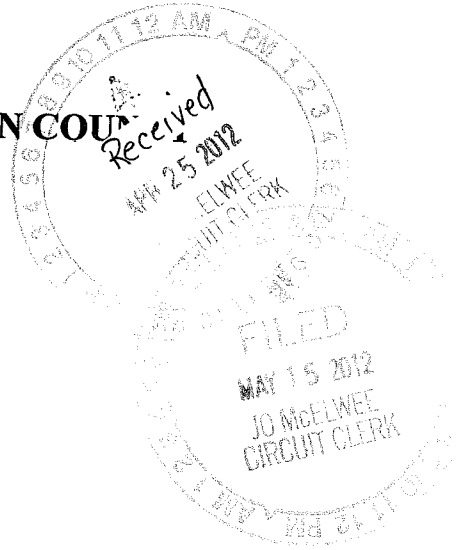


IN THE CIRCUIT COURT OF CAMDEN COUNTY  
STATE OF MISSOURI

STATE OF MISSOURI ex rel. )  
CHRIS KOSTER, the Attorney )  
General of Missouri, and the )  
MISSOURI DEPARTMENT OF )  
NATURAL RESOURCES, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
RED OAK RESORTS, LLC, )  
 )  
Defendant. )

Case No. 12cm-CC00091



**CONSENT JUDGMENT**

Plaintiff, the State of Missouri, at the relation of Chris Koster, Attorney General, the Missouri Department of Natural Resources ("Department") and Red Oak Resorts, LLC ("Red Oak"), do hereby consent to the entry of this judgment for the purpose of resolving the issues between them raised by the filing of Plaintiffs Petition for Permanent Injunction and Civil Penalties. The Court is satisfied that the provisions of this Judgment are intended to resolve the issues raised by the Petition and that the parties want to terminate this controversy and consent to the entry of this judgment without trial.

This Judgment is made, agreed upon and submitted to the Court for the purpose of settlement only, and upon the condition that the Court approves it in its entirety. In the event the Court does not approve of this Judgment in its entirety and as agreed by the parties, it shall be null and void and have no effect in this or any other proceeding. The parties understand and agree that each and every term of this Judgment shall be enforceable by further order of this Court, and to that end, the Court retains jurisdiction of the matter in order to enforce each and every term of this Judgment. The Court finds that the terms of this Judgment protect the public's interest.

The parties hereto, having consented to the entry of this Judgment, now therefore, before the taking of any testimony and upon the pleadings, it is hereby ORDERED, ADJUDGED AND DECREED that:

### **I. Objectives of the Parties**

1. The objectives of the parties to this Judgment are to protect human health and the environment and to resolve allegations contained in Plaintiffs Petition.

### **II. Jurisdiction and Venue**

2. This Court has jurisdiction over the subject matter herein and of the parties consenting hereto pursuant to § 644.076.1, RSMo. The subject matter of this action involves the Missouri Clean Water Law, Chapter 644, RSMo, and the regulations duly promulgated thereunder. The actions of Red Oak which give rise to this cause of action took place in Camden County and, therefore, venue is proper in this Court pursuant to § 644.076.1, RSMo, and this Court has jurisdiction over all parties.

### **III. Parties Bound**

3. The provisions of this Judgment shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or who will be, acting in concert or privity with, or on behalf of the parties to this action or their agents, servants, employees, heirs, successors, and assigns. Red Oak shall provide a copy of this order to all persons or entities retained to perform work required by this order.

### **IV. Satisfaction and Reservation of Rights**

4. Upon the completion of all terms of this Judgment, including the payment of civil penalties, completion of all schedules of compliance and the payment of any stipulated penalties due under the terms of this Judgment, Red Oak will be relieved of liability for the violations alleged in the petition.

5. This Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the Missouri Clean Water Law or its implementing regulations, or under other federal or state laws, or regulations, except as expressly stated in the preceding paragraph of this

Judgment. Without limiting the foregoing, the parties expressly agree that:

- a. Nothing in this Judgment shall prevent State from applying to this Court for further orders or relief if violations of this Judgment occur.
- b. Nothing in this Judgment shall preclude State from seeking equitable or legal relief for violations of the Missouri laws or regulations that were not alleged in the petition.
- c. Nothing in this Judgment shall preclude State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.
- d. The State of Missouri further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Red Oak's facility, acts or omissions, whether related to the violations addressed in this Judgment or otherwise.

#### **V. Injunctive Relief**

6. Red Oak agrees and is ordered to comply with the Missouri Clean Water Law, Chapter 644, RSMo, and the regulations duly promulgated thereunder for any and all future activities in the State of Missouri, including but not limited to, submitting analytical sampling results on its discharge monitoring reports by the 28th day of the month following the reporting period, in accordance with MSOP No. MO-0103128.

7. Red Oak agrees and is ordered to meet the following schedule of compliance:

- a. Red Oak has removed algae growth from the weirs of the clarifier and installed handrails around the outer edge of the flow equalization chamber, extended aeration unit and clarifier.
- b. Red Oak agrees to collect a single grab sample of the effluent discharged from the WWTF for analysis of pH, *E. Coli*, Total Residual Chlorine, Ammonia as Nitrogen, Dissolved Oxygen, Oil & Grease, and any other parameters listed in Part "A" of MSOP No. MO-0103128, and a twenty-four (24)-hour modified composite sample of the effluent for analysis of Biochemical Oxygen Demand and Total Suspended Solids,

comprised of a minimum of four (4) separate grab samples collected at least two (2) hours between each grab sample. During the months of April through October, Red Oak shall collect a single grab sample and a 24-hour-modified composite sample of the effluent weekly between 9:00 A.M. on Sunday and 3:00 P.M. on the following Monday, from April 1, 2012, through October 31, 2012.

c. In the event a single sample of effluent discharging from the WWTF serving Red Oak Resort shows non-compliance with any of the parameter limitations as contained in MSOP No. MO-0103128, Red Oak shall immediately notify the Department and shall take a second sample within 48 hours. If the second sample also shows non-compliance, Red Oak shall immediately cease discharging waste water from its WWTF and take immediate steps to rectify any aspect of the discharge that is in non-compliance.

d. Within twelve (12) months from the effective date of this Consent Judgment, Red Oak agrees to submit to the Department for review and approval, an engineering report prepared by a professional engineer licensed to practice in the State of Missouri. The engineering report shall be developed in accordance with the Missouri Clean Water Regulation 10 CSR 20-8.020 and shall include a detailed evaluation of the existing wastewater collection and treatment system, the hydraulic flow, and the organic loading. The engineering report shall identify all deficiencies, if any, with the wastewater collection and treatment systems and recommend corrective action to address the deficiencies. The engineering report shall also include a schedule with specific deadlines to implement the corrective actions approved by the Department.

e. Within fifteen (15) days of receipt of Department comments on the engineering report, respond in writing to the Department addressing all Department comments on the engineering report.

f. Red Oak shall implement the scheduled corrective actions included in the engineering report as approved by the Department. The schedule of corrective action approved by the Department shall become incorporated and fully enforceable as a term of this Consent Judgment.

g. Within thirty (30) days of completion of construction activities, the effluent discharged from the WWTF shall comply with the final effluent

limitations contained in MSOP No. MO-0103128.

## **VI. Information Collection and Retention**

8. The State, through its authorized representatives, shall have the right of entry into any facility covered by this Consent Judgment, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Judgment;
- b. verify any data or information submitted to the State in accordance with the terms of this Consent Judgment;
- c. obtain samples and, upon request, splits of any samples taken by Defendant or its representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Judgment.

9. Until five years after the termination of this Consent Judgment, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Judgment. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the State, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

10. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the State at least ninety (90) days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the State, Defendant shall deliver any such documents, records, or other information to the State.

11. This Consent Judgment in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the State pursuant to

applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

#### **VII. Civil Penalty**

12. Defendant consents to the entry of judgment in favor of the State of Missouri for a civil penalty of Seven Thousand Dollars (\$7,000.00). Defendant hereby authorizes entry of this judgment against them and in favor of the State of Missouri for this sum. Defendant has agreed to pay the civil penalty by check made payable to the "*State of Missouri (Camden County School Fund)*." Upon signing of this Consent Judgment by Defendant, Defendant will mail the check and a copy of the Consent Judgment to Collections Specialist, Missouri Attorney General's Office, P. O. Box 899, Jefferson City, MO 65102-0899. The Attorney General's office may hold or deposit the check consistent with its internal policies until such time as the consent judgment is entered by the Court. After entry by the Court, the Attorney General's Office will assure that the payment is credited to the proper account.

#### **VIII. Modification**

13. Except as otherwise specified herein, this Consent Judgment may be modified or amended only upon written agreement by and among the parties, their successors and assigns and with the approval of the Court. All modifications shall be in writing and filed with the Court.

#### **IX. Costs**

14. Defendant shall pay all court costs in this action.

The parties hereby consent to this Consent Judgment through their duly authorized representatives as indicated below.

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IN WITNESS WHEREOF, the parties hereto executed this Consent Judgment.

**RED OAK RESORTS, LLC**

By: Jerry Reinhold

Date: 3-29-2012

Printed Name: JERRY REINHOLD

Title: owner

**MISSOURI DEPARTMENT OF NATURAL RESOURCES**

Steven Fuler

Date: 4/16/12

for  
Alan J. Reinkemeyer, Acting Director  
Division of Environmental Quality

CHRIS KOSTER, Attorney General

[Signature]

Date 4.2.12

Don Willoh, Assistant Attorney General

IT IS SO ORDERED THIS 14th day of May, 2012.

[Signature]  
CIRCUIT JUDGE

CERTIFIED TO BE A TRUE AND  
CORRECT COPY OF THE ORIGINAL

DATE 5-17-12

CLERK OF CIRCUIT COURT  
CAMDEN COUNTY, MO.

BY JO McELWEE, CLERK

BY [Signature] DEPUTY